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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 139.146-US-U1
I hereby certify that this correspondence is being filed via facsimile transmission to the U.S. Patent and Trademark Office under 37 CFR 1.8 on <u>January 3, 2006</u> Signature _____	Application Number 09/733,480	Filed December 7, 2000
Typed or printed <u>George H. Gates</u> name _____	First Named Inventor William C.Y. Lee et al.	Art Unit 2662
		Examiner Saba Tsegaye

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

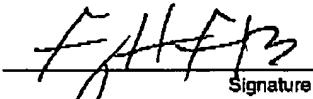
This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.
 assignee of record of the entire interest.
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)
 attorney or agent of record. 33,500
 Registration number _____
 attorney or agent acting under 37 CFR 1.34.
 Registration number if acting under 37 CFR 1.34 _____



George H. Gates

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Telephone number

January 3, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
 Submit multiple forms if more than one signature is required, see below.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Due Date: January 3, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appellants: William C. Y. Lee et al. Examiner: Saba Tsegaye
Serial No.: 09/733,480 Group Art Unit: 2662
Filed: December 7, 2000 Docket: G&C 139.146-US-U1
Title: TUNNELLING WIRELESS VOICE WITH SOFTWARE-DEFINED
VOCODERS

JAN 13 2006

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. Introduction

In response to the final Office Action dated November 1, 2005, Appellants' attorney hereby submits a Notice of Appeal accompanied by this Pre-Appeal Brief Request for Review. The claims have not been amended.

Appellants' attorney traverses the rejections for one or more of the following reasons:

(1) Palermo does not teach or suggest loading one of a plurality of vocoders into a processor of a called party's handset based on a particular type of network communicating with a calling party's handset; and

(2) Sieppi does not teach or suggest transmitting a notification to a called party's network that a calling party's handset is calling from a particular type of network, and then loading one of a plurality of software-defined vocoders into the called party's handset based on a transmitted notification.

II. Appellants' Independent Claims

Independent claims 1 and 5 are directed to tunneling voice data over one or more networks. Claim 1 is representative of both claims, and comprises the steps of:

(a) transmitting a notification to a called party's network that a calling party's handset is calling from a particular type of network; and
(b) loading one of a plurality of software-defined vocoders into the called party's handset based on the transmitted notification, wherein the loaded software-defined vocoder, when executed

by the called party's handset, translates voice data communicated between the calling party's handset and the called party's handset.

Independent claims 9 and 13 are directed to tunneling voice data over one or more networks. Claim 9 is representative of both claims, and comprises the steps of:

(a) receiving a notification from a calling party's network that it is a particular type of network; and

(b) loading one of a plurality of software-defined vocoders into a called party's handset based on the received notification, wherein the loaded software-defined vocoder, when executed by the called party's handset, translates voice data communicated between the calling party's handset and the called party's handset.

Independent claims 17 and 21 are directed to tunneling voice data over one or more networks. Claim 17 is representative of both claims, and comprises the steps of:

(a) loading one of a plurality of vocoders into a processor of a called party's handset, wherein the loaded vocoder is selected based on a particular type of network communicating with a calling party's handset; and

(b) executing the loaded vocoder in the processor of the called party's handset, wherein the vocoder translates voice data communicated to the called party's handset from the calling party's handset.

III. Arguments - Failure to Establish a Prima Facie Case under 35 U.S.C. §102(e) or 103(a)

Appellants' attorney directs the panel to pages 9-13 of the Response under 37 C.F.R. §1.111 filed on August 19, 2005 for the substance of the arguments.

Appellants' attorney submits that there are clear errors in the Examiner's rejections and further, the rejections fail to properly establish anticipation or obviousness of Appellants' claims based on the cited references.

Palermo does not teach loading a vocoder into a called party's handset based on a particular type of network communicating with a calling party's handset

Palermo merely states that a vocoder is loaded into the called party's handset based on the type of network (i.e., waveform) being used by the called party's handset, not the calling party's handset. Palermo does not teach or suggest loading one of a plurality of vocoders into a processor of a called party's handset based on a particular type of network communicating with a calling party's handset. Instead, Palermo merely describes switching between vocoders in the called party's

handset according to the type of network communicating with that called party's handset, not according to the type of network communicating with the calling party's handset.

In view of the above, Appellants' attorney submits that the rejection is based on clear error since all the limitations of the claims are not met by the reference.

Sieppi does not teach transmitting a notification to a called party's network that a calling party's handset is calling from a particular type of network, and then loading a vocoder into the called party's handset based on a transmitted notification

Sieppi merely states that a decision whether to use a decoder at a switch is made based on the types of vocoders in the calling and called party's handsets. Sieppi does not teach or suggest transmitting a notification to a called party's network that a calling party's handset is calling from a particular type of network, and then loading one of a plurality of software-defined vocoders into the called party's handset based on a transmitted notification. Instead, Sieppi only describes switching off the encoder/decoder in the switch means, if the handset has the necessary encoder/decoder. No notification of network type is transmitted to the called party's handset in Sieppi, and there is no selection, or switching, or any control, of a plurality of vocoders in the called party's handset, or any loading of a selected vocoder for execution into the called party's handset.

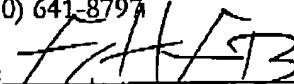
In view of the above, Appellants' attorney submits that the rejection is based on clear error since all the limitations of the claims are not met by the reference.

IV. Conclusion

In view of the above, it is submitted that the application is allowable over the references, and such allowance is respectfully solicited.

Respectfully submitted,

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